



Control Number: 51415



Item Number: 481

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SOAH DOCKET NO. 473-21-0538

PUC DOCKET NO. 51415

APPLICATION OF SOUTHWESTERN) BEFORE THE PUBLIC UTILITY
ELECTRIC POWER COMPANY FOR) COMMISSION OF TEXAS
AUTHORITY TO CHANGE RATES)
) REFERRED TO THE STATE OFFICE
) OF ADMINISTRATIVE HEARINGS

**SIERRA CLUB'S MOTION TO COMPEL
SOUTHWESTERN ELECTRIC POWER COMPANY'S RESPONSE TO
SIERRA CLUB'S SEVENTH SET OF REQUESTS FOR INFORMATION**

Under 16 Texas Administrative Code (“TAC”) § 22.144(e), Sierra Club respectfully submits this Motion to Compel seeking a full response to Sierra Club’s Seventh Set of Requests for Information (“RFI”) Question Nos. 7.1, 7.3, and 7.13 from the Southwestern Electric Power Company (“SWEPCO” or “the Company”).¹ Responses to these requests are relevant to several issues in this case including the Company’s test year spending for the Flint Creek power plant, costs incurred for compliance with U.S. Environmental Protection Agency (“EPA”) coal ash and wastewater requirements (“CCR/ELG” requirements) including test year CCR/ELG costs, and the Public Utilities Commission of Texas’s (“Commission’s”) oversight of the Company’s generation resources planning. Sierra Club respectfully asks that the Administration Law Judges (“ALJs”) issue an order compelling SWEPCO to fully respond to each of these RFIs. This motion is timely.²

¹ Attached as Exhibit 1.

² Sierra Club received SWEPCO’s objection to the Seventh Set of RFIs on May 12, 2021; thus, any Motion to Compel is due May 17, 2021. 16 TAC § 22.144(e).

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I. INTRODUCTION AND SUMMARY OF ARGUMENT

Sierra Club filed the Direct Testimony of Devi Glick in this proceeding that addresses, as relevant here, the prudence of the Company's ongoing spending at the Flint Creek coal-burning plant, including the Company's decision to retrofit the plant to comply with EPA's coal ash and wastewater regulations, known as the Coal Combustion Residuals and Effluent Limitations Guidelines ("CCR/ELG") rules. On April 27, 2021 the ALJs issued SOAH Order No. 7 granting SWEPCO's motion to strike Section V of Sierra Club's Direct Testimony that addresses the Company's analysis supporting its CCR/ELG retrofit decision. On May 7, 2021, Sierra Club filed an appeal to the ALJs Order No. 7 because that ruling impermissibly decides ultimate issues of fact and law without an evidentiary basis, erroneously prevents Sierra Club from presenting factual evidence and argument challenging the prudence of the Company's ongoing non-retrofit spending at the Flint Creek power plant, and effectively strips the Commission of its authority to regulate and supervise ongoing utility planning and investments.

Meanwhile, on April 23, 2021, SWEPCO filed the Rebuttal Testimony of Mark A. Becker, which responds to Ms. Glick's testimony and describes the Company's "comprehensive unit disposition analyses" supporting the decision to retrofit the Flint Creek coal-burning power plant to comply with the CCR/ELG rules.³ Sierra Club submitted its Seventh Set of RFIs to the Company seeking information directly related to the Flint Creek retrofit analyses described in Company witness Becker's Rebuttal Testimony. In refusing to produce responses to the Sierra Club's Question Nos. 7.1, 7.3, and 7.13, citing to SOAH Order No. 7, the Company objected that "a decision to retrofit Flint Creek [] was made after the conclusion of the historical test year" and

³ Rebuttal Testimony of Mark A. Becker at 9.

that “the costs associated with that decision [] are not being reviewed for recovery in this case.”⁴ The Company stated that it “does not intend to offer Section IV of Mr. Becker’s testimony into evidence.”⁵ Although SWEPCO’s analyses modeled the total costs associated with continuing to operate Flint Creek, including fixed O&M and future and ongoing capital costs,⁶ the Company’s Objections do not address the relevance of Sierra Club’s RFIs or the Company’s evaluation and expenditures related to CCR/ELG compliance to SWEPCO’s ongoing non-retrofit spending at Flint Creek.

As Sierra Club explained in the Appeal of SOAH Order No. 7, the ALJs erroneously decided that CCR/ELG costs are “not being reviewed for recovery in this case,”⁷ as there remains a factual dispute about whether the Company has included in Texas customers’ rates at least one dollar of the CCR/ELG costs that it incurred before and during the test year.⁸ The issues of capital costs, project costs, and communications with relevant entities about CCR/ELG compliance are all relevant to the factual dispute of when the spending for CCR/ELG projects started, how much was spent, and the amount of costs at issue for the test year in this case. The question of capital expenditures during the test year, regardless of the nature of those costs, are directly related to the “total cost” of operating Flint Creek which the Company has proposed to

⁴ Southwestern Electric Power Company’s Objections to Sierra Club’s Seventh Set of Requests for Information at 3-4, PUC Docket 51415 (Interchange Doc. 44 May 12, 2021), attached as Exhibit 2.

⁵ *Id.* at 4.

⁶ Rebuttal Testimony of Mark A. Becker at 10-11.

⁷ *See* Southwestern Electric Power Company’s Objections to Sierra Club’s Seventh Set of Requests for Information at 4, PUC Docket 51415 (Interchange Doc. May 12, 2021).

⁸ *See* Sierra Club’s Motion for Reconsideration, or in the Alternative, Appeal of SOAH Order No. 7 Granting SWEPCO’s Motion to Strike a Section of Sierra Club’s Direct Testimony at 7-11 (Interchange No. 453, filed May 7, 2021).

include in its test year costs. Thus, if the ALJs or the Commission reverse SOAH Order No. 7, compelling responses to the disputed RFIs in Sierra Club's Seventh set would necessarily follow. But even if Order No.7 stands, the ALJs should compel responses to Question Nos. 7.1, 7.3, and 7.13 because these responses are relevant to ongoing test year spending at the Flint Creek coal-burning plant, which SWEPCO proposes to include in rates in this case.

II. LEGAL STANDARDS

The Texas Rules of Civil Procedure provide that a party may obtain discovery regarding any matter that is not privileged and is relevant to the subject matter of the pending action.⁹ Relevant information to the proceeding is any information that "has any tendency to make a fact more or less probable than it would be" without the evidence and "is of consequence in determining the action."¹⁰ Parties may also obtain the discovery of information that is reasonably calculated to lead to the discovery of admissible evidence.¹¹ The scope of discovery under the Texas rules are broad.¹²

Moreover, the APA imposes additional requirements designed to ensure the fundamental due process rights of the parties in any proceeding before SOAH.¹³ Specifically, Section 2001.051 of the Texas Government Code provides, "[i]n a contested case, each party is entitled to an opportunity . . . to respond and to present evidence and argument on each issue involved in the case."

III. ARGUMENT

⁹ Texas Rules of Civil Procedure (TEX R. CIV. P, Rule 192.3; and 16 TAC § 22.141(a)

¹⁰ Tex. R. Evid. 401.

¹¹ *Id.*

¹² TAC § 22.141

¹³ *West Texas Utilities Co. v. Office of Public Utility Counsel*, 896 S.W.2d 261, 273 (Tex.App. Austin 1995).

The Commission should compel responses to Sierra Club RFI Questions 7.1, 7.3, and 7.13 for two reasons. First, as explained in Sierra Club’s Appeal of Order No. 7, the responses are relevant to the timing, amount, prudence, and public’s interest related to “any” of SWEPCO’s capital expenditures, which the Commission established as issues that “*must* be addressed” in this proceeding.¹⁴ Sierra Club’s RFIs seek information relevant to SWEPCO’s CCR/ELG expenditures and the Company’s own justification and timing for the Flint Creek retrofit decision, which justification the Company provided to the parties in this case. There remains a factual dispute about the date on which the decision to retrofit Flint Creek was decided and whether the Company has included in Texas customers’ rates at least one dollar of the CCR/ELG costs that were incurred before and during the test year.¹⁵ As stated in Sierra Club’s Appeal of SOAH Order No. 7, it was an error for the ALJs to decide those matters on the basis of SWEPCO’s attorneys’ factual assertions without a hearing or the opportunity to present evidence. Further, SOAH Order No. 7 simply (and improperly) struck Section V of Devi Glick’s testimony, but does not preclude discovery about CCR/ELG project spending or the timing of the Company’s decision to retrofit. In fact, the ALJs order suggests that if CCR/ELG spending or the decision to retrofit were made during the test year, the evidence could be relevant. As noted, Sierra Club’s Seventh RFI is directly relevant to establishing whether any CCR/ELG spending occurred, and whether the Company effectively decided to retrofit Flint Creek, during or before the test year.¹⁶ At this stage of the proceeding, it is premature to preclude discovery on these

¹⁴ Preliminary Order, Issues 15, 44, PUC Docket 51415 (Interchange Doc. 117, December 17, 2020).

¹⁵ See Sierra Club’s Motion for Reconsideration, or in the Alternative, Appeal of SOAH Order No. 7 Granting SWEPCO’s Motion to Strike a Section of Sierra Club’s Direct Testimony at 7-11 (Interchange No. 453, filed May 7, 2021).

¹⁶ Tex. R. Evid. 192.3 (“a party may obtain discovery regarding any matter that is not privileged . . . [and] appears reasonably calculated to lead to the discovery of admissible evidence.”)

issues and thus SWEPCO should be compelled to respond and Sierra Club should be allowed to adduce evidence supporting its claims that the Flint Creek retrofit costs are, in fact, at issue.¹⁷ At a minimum, the Commission should compel SWEPCO to respond to Sierra Club's RFIs and allow Sierra Club to establish the relevance of any responses through further discovery and cross-examination.

Second, like Sierra Club's Sixth RFI, to which SWEPCO also objected, the responses to those questions are relevant to the "total cost" of operating Flint Creek,¹⁸ and whether SWEPCO's ongoing test-year spending at Flint Creek, including fixed O&M and other ongoing capital expenditures, are reasonable and necessary, which the Commission's Preliminary Order also identified as an ultimate issue in this case.¹⁹ SWEPCO has the burden of proof to show that every dollar of the \$9.8 million in O&M and \$3.4 million in test-year capital and O&M expenses are justified.²⁰ Order No. 7 makes clear that those test-year costs are at issue in this case, and that Sierra Club may "attempt to develop a record that would justify disallowance of some or all of capital and O&M actually incurred by SWEPCO in the test year to maintain Flint Creek."²¹ Sierra Club seeks to develop such a record by compelling responses to these RFIs. Each of the Sierra Club RFIs at issue are directly relevant to evaluating those test-year spending issues:

- 1) **Sierra Club 7.1.** This RFI asks Mr. Becker to provide all communications with the Arkansas Electric Cop Corp and the U.S. EPA regarding the evaluation or decision to retrofit Flint Creek and all Capital Improvement Approval Requisitions for the CCR or ELG projects.

¹⁷ See Tex. R. Evid. 104(b) ("[w]hen the relevance of evidence depends on whether a fact exists, proof must be introduced sufficient to support a finding that the fact does exist. The court may admit the proposed evidence on the condition that the proof be introduced later.").

¹⁸ Rebuttal Testimony of Mark A. Becker at 10.

¹⁹ *Id.*, Issue 24.

²⁰ Direct Testimony of Devi Glick at 11, Table 1.

²¹ Order No. 7 at 5.

- 2) **Sierra Club 7.3.** This RFI asks Mr. Becker to provide the CCR capital expenditures in the years they were incurred for the CCR and ELG projects.
- 3) **Sierra Club 7.13.** This RFI asks Mr. Becker to clarify the discrepancies of project cost difference and the amount of CCR/ELG and Pond Closure costs included in the test year rate.

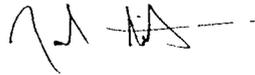
Answers to each of these questions would aid the development of a record demonstrating that SWEPCO's economic analysis of Flint Creek was flawed and biased toward continuing to operate Flint Creek and, if corrected, would tend to call into question the prudence of all of the Company's test year capital and O&M spending at the plant, which are ultimate issues in this case.

IV. CONCLUSION

For these reasons, Sierra Club respectfully asks that the ALJs issue an order requiring SWEPCO to respond to Sierra Club's Seventh Set of RFIs Question Nos. 7.1, 7.3, and 7.13.

Dated: May 14, 2021

Respectfully submitted,

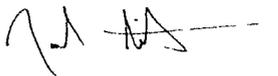


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Counsel for Sierra Club

CERTIFICATE OF SERVICE

I, Joshua Smith, certify that a copy of the foregoing Sierra Club submission was served upon all parties of record in this proceeding on May 14, 2021, by First-class U.S. mail, hand delivery, and/or e-mail, as permitted by the presiding officer.



Joshua Smith
Sierra Club Environmental Law Program

Exhibit 1

SOAH DOCKET NO. 473-21-0538

PUC DOCKET NO. 51415

**APPLICATION OF SOUTHWESTERN)
ELECTRIC POWER COMPANY FOR)
AUTHORITY TO CHANGE RATES)
)
)
)** **BEFORE THE PUBLIC UTILITY
COMMISSION OF TEXAS

REFERRED TO THE STATE OFFICE
OF ADMINISTRATIVE HEARINGS**

**SIERRA CLUB’S SEVENTH SET OF REQUESTS FOR INFORMATION TO
SOUTHWESTERN ELECTRIC POWER COMPANY**

Sierra Club submits this Seventh Set of Requests for Information (“RFI”) to Southwestern Electric Power Company (“SWEPCO”). Under 16 TAC §§ 22.141-145, Sierra Club requests that SWEPCO provide the following information and answer the following questions under oath. Please answer the questions and sub-questions in the order in which they are listed and in sufficient detail to provide a complete and accurate answer to the question. These question(s) are continuing in nature, and if there is a relevant change in circumstances, submit an amended answer, under oath, as a supplement to your original answer. Please state the name of the witness in this proceeding who will sponsor the answer to the question.

Responses to the RFIs should be served on the following individuals within four days of service, or by May 11, 2021, or as modified by order in this case:

Joshua Smith
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Sierra Club Environmental Law Program
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DEFINITIONS

Unless otherwise specified in each individual interrogatory or request, “you,” “your,” the “Company,” or “SWEPCO,” refers to Southwestern Electric Power Company, and its affiliates, directors, officers, employees, consultants, attorneys, and authorized agents.

“And” and “or” shall be construed either conjunctively or disjunctively as required by the context to bring within the scope of these interrogatories and requests for production of documents any information which might be deemed outside their scope by another construction.

“Any” means all, each and every example of the requested information.

“Communication” means any transmission or exchange of information between two or more persons, whether orally or in writing, and includes, without limitation, any conversation or discussion by means of letter, telephone, note, memorandum, telegraph, telex, telecopy, cable, email, or any other electronic or other medium.

“Control” means, without limitation, that a document is deemed to be in your control if you have the right to secure the document or a copy thereof from another person or public or private entity having actual possession thereof. If a document is responsive to a request, but is not in your possession or custody, identify the person with possession or custody. If any document was in your possession or subject to your control, and is no longer, state what disposition was made of it, by whom, the date on which such disposition was made, and why such disposition was made.

“Document” refers to written matter of any kind, regardless of its form, and to information recorded on any storage medium, whether in electrical, optical or electromagnetic form, and capable of reduction to writing by the use of computer hardware and software, and includes all copies, drafts, proofs, both originals and copies either (1) in the possession, custody or control of the Company regardless of where located, or (2) produced or generated by, known to or seen by the Company, but now in their possession, custody or control, regardless of where located whether or still in existence. Such “documents” shall include, but are not limited to, applications, permits, monitoring reports, computer printouts, contracts, leases, agreements, papers, photographs, tape recordings, transcripts, letters or other forms of correspondence, folders or similar containers, programs, telex, TWX and other teletype communications,

memoranda, reports, studies, summaries, minutes, minute books, circulars, notes (whether typewritten, handwritten or otherwise), agenda, bulletins, notices, announcements, instructions, charts, tables, manuals, brochures, magazines, pamphlets, lists, logs, telegrams, drawings, sketches, plans, specifications, diagrams, drafts, books and records, formal records, notebooks, diaries, registers, analyses, projections, email correspondence or communications and other data compilations from which information can be obtained (including matter used in data processing) or translated, and any other printed, written, recorded, stenographic, computer-generated, computer-stored, or electronically stored matter, however and by whomever produced, prepared, reproduced, disseminated or made. For purposes of the production of “documents,” the term shall include copies of all documents being produced, to the extent the copies are not identical to the original, thus requiring the production of copies that contain any markings, additions or deletions that make them different in any way from the original.

“Identify” means:

- a. With respect to a person, to state the person’s name, address and business relationship (e.g., “employee”) vis-à-vis the Company;
- b. With respect to a document, to state the nature of the document in sufficient detail for identification in a request for production, its date, its author, and to identify its custodian. If the information or document identified is recorded in electrical, optical or electromagnetic form, identification includes a description of the computer hardware or software required to reduce it to readable form.

“Person” means, without limitation, every natural person, corporate entity, partnership, association (formal or otherwise), joint venture, unit operation, cooperative, municipality, commission, governmental body or agency.

“Relating to” or “concerning” means and includes pertaining to, referring to, or having as a subject matter, directly or indirectly, expressly or implied, the subject matter of the specific request.

“Workpapers” are defined as original, electronic, machine-readable, unlocked, unlocked, in native format, and with formulae and links intact.

INSTRUCTIONS

1. The Definitions, Instructions, and Claim of Privilege set out in this Request for Information apply to these questions.
2. In answering these questions, furnish all information that is available to you, including information in the possession of your agents, employees, and representatives, all others from whom you may freely obtain it, and your attorneys and their investigators.
3. Please answer each question based upon your knowledge, information, or belief, and any answer that is based upon information or belief should state that it is given on that basis.
4. If you have possession, custody, or control (as defined by Tex. R. Civ. P. 192.7(b)) of the originals of these documents requested, please produce the originals or a complete copy of the originals and all copies that are different in any way from the original, whether by interlineation, receipt stamp, or notation.
5. If you do not have possession, custody, or control of the originals of the documents requested, please produce copies of the documents, however made, in your possession, custody, or control. If any document requested is not in your possession or subject to your control, please explain why not, and give the present location and custodian of any copy or summary of the document.
6. If any question appears confusing, please request clarification from the undersigned counsel.
7. In providing your responses, please start each response on a separate page and type, at the top of the page, the question that is being answered.
8. As part of the response to each question, please state, at the bottom of the answer, the name and job position of each person who participated in any way, other than providing clerical assistance, in the preparing of the answer. If the question has sub-parts, please identify the person or persons by sub-part. Please also state the name of the witness in this docket who will sponsor the answer to the question and who can vouch for the truth of the answer. If the question has sub-parts, please identify the witness or witnesses by sub-part.

9. Rather than waiting to provide all of the responses at the same time, please provide individual responses as each becomes available.

10. Wherever the response to a request for information consists of a statement that the requested information is already available to Sierra Club, please provide a detailed citation to the document that contains the information. The citation shall include the title of the document, relevant page number(s), and to the extent possible paragraph number(s) and/or chart(s)/table(s)/figure number(s).

11. In the event that any document referred to in response to any request for information has been destroyed, specify the date and the manner of such destruction, the reason for such destruction, the person authorizing the destruction and the custodian of the document at the time of its destruction.

12. These questions are continuing in nature. If there is a change in circumstances or facts or if you receive or generate additional information that changes your answer between the time of your original response and the time of the hearings, then you should submit, under oath, a supplemental response to your earlier answer.

13. If you consider any question to be unduly burdensome, or if the response would require the production of a voluminous amount of material, please call the undersigned counsel as soon as possible in order to discuss the situation and to try to resolve the problem. Likewise, if you object to any of the questions on the grounds that the question seeks confidential information, or on any other grounds, please call the undersigned counsel as soon as possible.

14. If the response to any question is voluminous, please provide separately an index to the materials contained in the response.

15. If the information requested is included in previously furnished exhibits, workpapers, or responses to other discovery inquiries or otherwise, in hard copy or electronic format, please furnish specific references thereto, including Bates Stamp page citations and detailed cross-references.

16. Data should be provided in native electronic format including active EXCEL workbooks and all linked workbooks, with all formulas, cell references, links, etc., intact, functioning, and complete for all tables, figures, and attachments in the testimony.

17. To the extent that a question asks for the production of copyrighted material, it is sufficient to provide a listing of such material, indicating the title, publisher, author, edition, and page references relied on or otherwise relevant to the question.

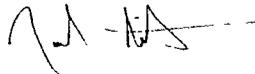
18. Sierra Club reserves the right to serve supplemental, revised, or additional discovery requests as permitted in this proceeding.

PRIVILEGE

If you claim a privilege including, but not limited to, the attorney-client privilege or the work product doctrine, as grounds for not fully and completely responding to any request for information or request for production, describe the basis for your claim of privilege in sufficient detail so as to permit meaningful evaluation of the validity of the claim. With respect to documents for which a privilege is claimed, produce a “privilege log” that identifies the author, recipient, date and subject matter of the documents or interrogatory answers for which you are asserting a claim of privilege and any other information pertinent to the claim that would likewise enable evaluation of the validity of such claims.

Dated: May 5, 2021

Respectfully submitted,

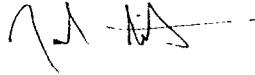


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Counsel for Sierra Club

CERTIFICATE OF SERVICE

I, Joshua Smith, certify that a copy of the foregoing Sierra Club submission was served upon all parties of record in this proceeding on May 5, 2021, by First-class U.S. mail, hand delivery, and/or e-mail, as permitted by the presiding officer.



Joshua Smith
Sierra Club Environmental Law Program

- i. After SWEPCO decided to retire Welsh Unit 2, did the Company reduce capital and O&M spending at the plant? If yes, please explain how the Company decided whether to make capital expenditures at the plant. If not, please explain.
- j. Please provide SWEPCO's capital spending plan for Welsh Unit 2 in the year prior to its decision to retire, and during the year in which it made the decision to retire the plant.

7.3 Refer to SWEPCO response to SC 1-9 Attachment 1. Provide the CCR capital expenditures in the years they were incurred for the CCR and ELG projects.

7.4 Refer to SWEPCO response to SC 2-6, HS Attachment 2 and Exhibit H-5.3b.

- a. Explain why the Forecast of Expenditures by project listed for the years 2021-2023 differs from the list of projected project expenditures on Exhibit H-5.3b.
- b. State which project expenditure forecast was created most recently.
- c. State whether the Company uses either of these, or any other capital expenditure forecasts, in deciding whether to continue to operate each of its coal-fired power plants.
- d. State whether the Company anticipates that it will incur capital expenditure costs beyond what is forecasted in SC-26 Highly Sensitive Attachment 2 over the next decade.

7.5 Refer to Exhibit H-5.3b and the projects at the Welsh Plant. Indicate which of the project items were installed to comply with the MATS regulations.

7.6 Provide SWEPCO's base fundamental forecast for every year between 2015 and present.

7.7 State whether SWEPCO has entered into any bilateral contracts to buy or sell capacity within the last five years?

- a. If yes, provide a copy of all such contracts.
- b. State the quantity of capacity purchased or sold and the time period over which the contract was in effect.
- c. State whether the contract is for firm or non-firm capacity.
- d. State the price paid or received for the capacity.

7.8 Refer to SWEPCO response to Sierra Club 1-8, HS Attachment 1. Explain what costs are included in the Fixed O&M category of costs.

7.9 Refer to SWEPCO response to Sierra Club 3-1, Highly Sensitive Attachment 4.

- a. Provide the study and all analysis used to develop the findings presented here.
- b. State whether the power flow modeling was conducted with any new resource options available in the NW Arkansas load pocket.

7.10 Refer to SWEPCO response to Sierra Club 2-2 Highly Sensitive Attachment 13.

- a. State whether the costs are in nominal or real dollars, and if real, what dollar year.
- b. Provide the assumed cost decline or escalation rates.

- c. State the source of each Replacement Cost and cost decline or escalation rates.
- d. Provide the project lifetime.

7.11 Refer to Schedule H-5-3.b.

- a. For 2020, break out which costs were projected and which were incurred.
- b. Update with all incurred costs for 2020.

7.12 Refer to SWEPCO response to Sierra Club 2-2 Highly Sensitive Attachment 2.

- a. State whether the cost of a new 345 kV line upgrade is included in the analysis.
- b. State whether the Company has evaluated the cost to install the transmission upgrades.
 - i. If yes, provide the transmission project costs.
 - ii. If no, explain why no such analysis has been conducted.
- e. Explain what each of the resource labels represent and how it is used by the model.

5.2 Refer to SWEPCO response to SC 2-17, Attachment 1.

- a. Explain why the total Flint Creek project cost in this attachment differs from the total project cost on SC 1-9, Attachment 1.
- b. State the amount of each of the CCR/ELG and Pond Closure costs that were included in the test year rate base.

Exhibit 2

**SOAH DOCKET NO. 473-21-0538
PUC DOCKET NO. 51415**

**APPLICATION OF SOUTHWESTERN §
ELECTRIC POWER COMPANY FOR §
AUTHORITY TO CHANGE RATES §** **BEFORE THE STATE OFFICE
OF
ADMINISTRATIVE HEARINGS**

**SOUTHWESTERN ELECTRIC POWER COMPANY’S RESPONSE TO SIERRA
CLUB’S SEVENTH SET OF REQUESTS FOR INFORMATION**

MAY 12, 2021

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-  SC_07_006_1H2015_Base_Attachment_1.xls
-  SC_07_006_1H2019_Base_Attachment_4.xlsx
-  SC_07_006_2H2016_Base_Attachment_2.xlsx
-  SC_07_006_2H2018_Base_Attachment_3.xlsx
-  SC_7-10_Attachment_1.xlsx

**SOAH DOCKET NO. 473-21-0538
PUC DOCKET NO. 51415**

**SOUTHWESTERN ELECTRIC POWER COMPANY'S RESPONSE TO SIERRA
CLUB'S SEVENTH SET OF REQUESTS FOR INFORMATION**

Question No. SC 7-1:

Refer to the Rebuttal Testimony of Mark A. Becker at page 9.

- a. Provide all communications with the Arkansas Electric Coop Corp regarding the evaluation or decision to retrofit of Flint Creek to comply with the CCR or ELG rules.
- b. Provide all communications with U.S. EPA regarding SWEPCO's evaluation or decision to retrofit of Flint Creek to comply with the CCR or ELG rules.
- c. Provide all of SWEPCO's Capital Improvement Approval Requisitions for the CCR or ELG projects.

Response No. SC 7-1:

SWEPCO has filed an objection to this RFI.

Prepared By: Mark A. Becker

Title: Mng Dir Res Plnning&Op Anlysis

Sponsored By: Mark A. Becker

Title: Mng Dir Res Plnning&Op Anlysis

SOAH DOCKET NO. 473-21-0538
PUC DOCKET NO. 51415

SOUTHWESTERN ELECTRIC POWER COMPANY'S RESPONSE TO SIERRA
CLUB'S SEVENTH SET OF REQUESTS FOR INFORMATION

Question No. SC 7-2:

Refer to the Rebuttal Testimony of Mark A. Becker at pages 2 and 6-7, and SWEPCO Schedule H-5.3b. For Flint Creek, for each line-item capital expenditure listed in Schedule H-5.3b:

- a. Explain what the line item refers to, and the reason for the expenditure.
- b. Provide the useful life for the expenditure.
- c. Indicate which portion of the capital expenditure is "in service," and the date the expenditure was put into service.
- d. If the expenditure is not "in service," provide the date on which it will be.
- e. State whether any portion of the expenditure could be avoided by retiring Flint Creek by 2028.
- f. Explain why SWEPCO included capital expenditures that are not in service or in rates in the Schedule.
- g. Admit that, once a utility has decided to retire a generation resource, the utility should decrease capital expenditures intended to extend the life of a plant. If not admitted, explain why not.
- h. Explain how the utility factors the proximity of a plant's retirement date into its capital expenditure plan? Specifically, state whether the Company has a policy or general practice of ramping down spending within a set time prior to a plants retirement date and explain said policy.
- i. After SWEPCO decided to retire Welsh Unit 2, did the Company reduce capital and O&M spending at the plant? If yes, please explain how the Company decided whether to make capital expenditures at the plant. If not, please explain.
- j. Please provide SWEPCO's capital spending plan for Welsh Unit 2 in the year prior to its decision to retire, and during the year in which it made the decision to retire the plant.

Response No. SC 7-2:

- a. Descriptions of the 164 distinct capital expenditures are included in Schedule H-5.3b, which was filed with the Company's case in chief on October 14, 2020.
- b. The useful life of each expenditure varies based on the nature of the project, the life of the equipment, and the operation of each generating unit. However, in general, the items are placed into various FERC accounts and are depreciated appropriately over the lives associated with each major equipment group as approved by the Commission.
- c. Schedule H-5.3b reflects capital expenditures by calendar year, and was not created based on in-service dates for any project or a "portion" of a project. Schedule H-5.2b includes all major plant additions (projects placed in service) for July 2016 through March 2020.

- d. See the response to part c.
- e. See the Company's response to Sierra Club 2-17 for the requested information.
- f. Schedule H-5.3b, its form and data, is included within the filing requirements for the Commission's rate filing package. Therefore, the Company provided the data as required.
- g. Denied. While the Company agrees that a generating unit's capital investment plan should be reviewed in the context of a planned retirement date, this statement is too broad to accept without qualification. Even if a unit is planned to be retired, additional capital investment could be required to continue operating a unit in a safe, efficient, and environmentally compliant manner to its planned retirement date. To the extent that such investments may also be seen as extending a unit's life, the Company would need to continue making some capital investments. However, the Company may have the opportunity to reduce capital expenditures as a unit approaches retirement and will review specific investments within the normal course of business under such circumstances.
- h. See the response to part g. The Company uses its professional judgment and good utility practice to determine how best to maintain a unit in a safe, reliable, and environmentally compliant manner prior to retirement.
- i. Yes. As also noted in part h, the Company relied upon its professional judgment and good utility practice to determine how to best to reduce capital investment and O&M expense as Welsh Unit 2 approached its retirement date.
- b. The decision to retire Welsh Unit 2 was announced a decade ago, in 2011. The decision to retire the unit was discussed in Docket No. 40443 before this Commission, and the retirement itself was fully litigated in Docket No. 46449, and is final. Documents related to the decision would be part of the record in those cases.

Prepared By: Brian K. Rupp

Title: Regulatory Case Mgr

Sponsored By: Monte A. McMahon

Title: VP Generating Assets SWEPCO

**SOAH DOCKET NO. 473-21-0538
PUC DOCKET NO. 51415**

**SOUTHWESTERN ELECTRIC POWER COMPANY'S RESPONSE TO SIERRA
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Question No. SC 7-3:

Refer to SWEPCO response to SC 1-9 Attachment 1. Provide the CCR capital expenditures in the years they were incurred for the CCR and ELG projects.

Response No. SC 7-3:

SWEPCO has filed an objection to this RFI.

Prepared By: Mark A. Becker

Title: Mng Dir Res Plnning&Op Anlysis

Sponsored By: Mark A. Becker

Title: Mng Dir Res Plnning&Op Anlysis

**SOAH DOCKET NO. 473-21-0538
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**SOUTHWESTERN ELECTRIC POWER COMPANY'S RESPONSE TO SIERRA
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Question No. SC 7-4:

Refer to SWEPCO response to SC 2-6, HS Attachment 2 and Exhibit H-5.3b.

- a. Explain why the Forecast of Expenditures by project listed for the years 2021-2023 differs from the list of projected project expenditures on Exhibit H-5.3b.
- b. State which project expenditure forecast was created most recently.
- c. State whether the Company uses either of these, or any other capital expenditure forecasts, in deciding whether to continue to operate each of its coal-fired power plants.
- d. State whether the Company anticipates that it will incur capital expenditure costs beyond what is forecasted in SC-26 Highly Sensitive Attachment 2 over the next decade.

Response No. SC 7-4:

- a-b. The forecast used to create Schedule H-5.3b was from June 2020. The forecast used to create the response to SC 2-6 was from March 2021. The change in projected project expenditures from June 2020 to March 2021 is due to the Company's evolving plans over that time, such as the decision not to move forward with CCR and ELG projects at the Pirkey and Welsh plants.
- c. Yes.
- d. The Company's capital forecasts are created based on the best information available at the time, using professional judgment and good utility practice. The Company has not identified any forecasted capital costs based on information that is not currently known.

Prepared By: Brian K. Rupp

Title: Regulatory Case Mgr

Sponsored By: Monte A. McMahon

Title: VP Generating Assets SWEPCO

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**SOUTHWESTERN ELECTRIC POWER COMPANY'S RESPONSE TO SIERRA
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Question No. SC 7-5:

Refer to Exhibit H-5.3b and the projects at the Welsh Plant. Indicate which of the project items were installed to comply with the MATS regulations.

Response No. SC 7-5:

The capital work designated as "WSHENVENG WSH U0 ACI - FF / Chimney" was the construction program that included the installation of equipment to meet MATS requirements, including a fabric filter (FF) and activated carbon injection (ACI).

Prepared By: Brian K. Rupp

Title: Regulatory Case Mgr

Sponsored By: Monte A. McMahon

Title: VP Generating Assets SWEPCO

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**SOUTHWESTERN ELECTRIC POWER COMPANY'S RESPONSE TO SIERRA
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Question No. SC 7-6:

Provide SWEPCO's base fundamental forecast for every year between 2015 and present.

Response No. SC 7-6:

Please see SC_07_006_Attachment(s) 1 through 4. See also the supplemental response to CARD 2-10 for the most recent commodity price forecast.

Sierra Club Attachments 1 through 4 have been provided electronically on the PUC Interchange.

Prepared By: Karl R. Bletzacker

Title: Dir Fundamental Analysis

Sponsored By: Mark A. Becker

Title: Mng Dir Res Plnning&Op Anlysis

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**SOUTHWESTERN ELECTRIC POWER COMPANY'S RESPONSE TO SIERRA
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Question No. SC 7-7:

State whether SWEPCO has entered into any bilateral contracts to buy or sell capacity within the last five years?

- a. If yes, provide a copy of all such contracts.
- b. State the quantity of capacity purchased or sold and the time period over which the contract was in effect.
- c. State whether the contract is for firm or non-firm capacity.
- d. State the price paid or received for the capacity.

Response No. SC 7-7:

No.

Prepared By: Scott E. Mertz

Title: Regulatory Consultant Staff

Sponsored By: Jason M. Stegall

Title: Reg Pricing & Analysis Mgr

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**SOUTHWESTERN ELECTRIC POWER COMPANY'S RESPONSE TO SIERRA
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Question No. SC 7-8:

Refer to SWEPCO response to Sierra Club 1-8, HS Attachment 1. Explain what costs are included in the Fixed O&M category of costs.

Response No. SC 7-8:

The Fixed O&M dollars include fixed costs for operating the plant and property taxes for the units.

Prepared By: Joseph S. Perez

Title: Forecast Analyst Prin

Sponsored By: Mark A. Becker

Title: Mng Dir Res Plnning&Op Anlysis

**SOAH DOCKET NO. 473-21-0538
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**SOUTHWESTERN ELECTRIC POWER COMPANY'S RESPONSE TO SIERRA
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Question No. SC 7-9:

Refer to SWEPCO response to Sierra Club 3-1, Highly Sensitive Attachment 4.

- a. Provide the study and all analysis used to develop the findings presented here.
- b. State whether the power flow modeling was conducted with any new resource options available in the NW Arkansas load pocket.

Response No. SC 7-9:

- a. See SC_7-9_CONFIDENTIAL_Attachments_1-4.
- b. The power flow modeling was not conducted with any new resource options available in the NW Arkansas load pocket.

The attachments responsive to this request are CONFIDENTIAL under the terms of the Protective Order. Due to current restrictions associated with COVID-19, this information is being provided electronically and a secure login to access the information will be provided upon request to individuals who have signed the Protective Order Certification.

Prepared By: William M. Romine

Title: Regulatory Consultant Staff

Sponsored By: Wayman L. Smith

Title: Dir Trans Planning

**SOAH DOCKET NO. 473-21-0538
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**SOUTHWESTERN ELECTRIC POWER COMPANY'S RESPONSE TO SIERRA
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Question No. SC 7-10:

Refer to SWEPCO response to Sierra Club 2-2 Highly Sensitive Attachment 13.

- a. State whether the costs are in nominal or real dollars, and if real, what dollar year.
- b. Provide the assumed cost decline or escalation rates.
- c. State the source of each Replacement Cost and cost decline or escalation rates.
- d. Provide the project lifetime.

Response No. SC 7-10:

- a. The costs represented in SC 2-2 Highly Sensitive Attachment 13 are nominal 2020 dollars.
- b. For learning escalation rates please see Sierra Club 7-10 Attachment 1.
- c. The EIA'S AEO2020 report was the source of learning curve escalation rates and capital cost for thermal and renewable replacement capacity.
- d. Combined cycles, combustion turbines, wind, and solar resources have a 30 year life. Gas conversion plants and battery storage have a 10 year life. PPA capacity has a 5 year life.

Prepared By: Joseph S. Perez

Title: Forecast Analyst Prin

Sponsored By: Mark A. Becker

Title: Mng Dir Res Plnning&Op Analysis

Thermal Resources

learning Curve Escalation (%)

2021	0.245%
2022	1.640%
2023	-0.350%
2024	0.970%
2025	2.048%
2026	2.078%
2027	2.440%
2028	2.793%
2029	2.770%
2030	2.902%
2031	2.786%
2032	2.566%
2033	2.499%
2034	2.489%
2035	2.378%
2036	2.365%
2037	2.283%
2038	2.260%
2039	2.355%
2040	2.577%
2041	2.588%
2042	2.641%
2043	2.659%
2044	2.637%
2045	2.510%
2046	2.599%
2047	2.573%
2048	2.546%
2049	2.498%
2050	3.301%

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**SOUTHWESTERN ELECTRIC POWER COMPANY'S RESPONSE TO SIERRA
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Question No. SC 7-11:

Refer to Schedule H-5-3.b.

- a. For 2020, break out which costs were projected and which were incurred.
- b. Update with all incurred costs for 2020.

Response No. SC 7-11:

- a. As described in the response to Sierra Club 7-2, Schedule H-5.3b was created to meet filing requirements of the Commission's rate filing package, and was not created with regard to in-service costs actually incurred and included in the Company's capital additions for consideration in rates.
- b. Major capital investments that were actually made (incurred) and in-service at the end of the Company's test year in this proceeding are included in Schedule H-5.2b.

Prepared By: Brian K. Rupp

Title: Regulatory Case Mgr

Sponsored By: Monte A. McMahon

Title: VP Generating Assets SWEPCO

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SOUTHWESTERN ELECTRIC POWER COMPANY'S RESPONSE TO SIERRA CLUB'S SEVENTH SET OF REQUESTS FOR INFORMATION

Question No. SC 7-12:

Refer to SWEPCO response to Sierra Club 2-2 Highly Sensitive Attachment 2.

- a. State whether the cost of a new 345 kV line upgrade is included in the analysis.
- b. State whether the Company has evaluated the cost to install the transmission upgrades.
 - i. If yes, provide the transmission project costs.
 - ii. If no, explain why no such analysis has been conducted.
- c. Explain what each of the resource labels represent and how it is used by the model.

Response No. SC 7-12:

- a. Yes, the 345kV line costs were included in the economic evaluation for Flint Creek.
- b. Yes, the Company has evaluated the cost of 345kV line at Flint Creek power station, if the unit is assumed to retire.
 - i. Please see the response to Sierra Club 6-5 for the transmission costs assumed in SC 2-2 Highly Sensitive Attachment 2.
 - ii. N/A
- c. In reference to SC 2-2 Attachment 2, :
 - 1) For Utility Costs (Nominal\$) section of report: Load Cost represents the cost to serve SWEPCOs load at modeled market energy prices for the assumed commodity price forecast.
 - 2) For Utility Costs (Nominal\$) section of report: Fuel Costs represent the existing units' and any new build thermal resources' fuel costs for fuel burned to produce energy during the planning period. Fuel Cost is an output from the model.
 - 3) For Utility Costs (Nominal\$) section of report: Emission Costs represent CO2 and consumables reagent costs associated with energy production by existing and any new build thermal resources. Emission Cost is an output from the model.
 - 4) For Utility Costs (Nominal\$) section of report: Existing System FOM and OGC Cost represent the fixed costs (Fixed O&M and On-going capital recovery) of the units and the recovery of transmission system upgrade costs in the Flint Creek retirement case.
 - 5) For Utility Costs (Nominal\$) section of report: The Incremental Fixed and Variable Cap Charges Costs represent the fixed and variable O&M cost of production for any new units built in the planning period and any variable O&M costs from existing units.

- 6) For Utility Costs (Nominal\$) section of report: Incremental Capital+Renewable+EE+VVO Program Costs represents the recovery of the capital costs from any new thermal, renewable and VVO resource additions and the energy-efficiency program implementation costs.
- 7) For Utility Costs (Nominal\$) section of report: Contract Revenue/Cost represents the net of revenues and cost associated with existing generation contracts.
- 8) For Utility Costs (Nominal\$) section of report: Market Revenue is the revenue the existing and any new resource additions receive from making market energy sales.
- 9) For Utility Costs (Nominal\$) section of report: Grand Total Net Utility Costs are the total utility costs minus revenues from market energy sales.
- 10-11) For Resource Capacity Additions section: Supply-Side (Thermal) annual and cumulative megawatts show year-over-year and cumulative thermal resources added during the planning period.
- 12-13) For Resource Capacity Additions section: Incremental energy efficiency + VVO annual and cumulative megawatts show year-over-year and cumulative for these resources added during the planning period.
- 14-15) For Resource Capacity Additions section: Distributed Solar annual and cumulative megawatts show year-over-year and cumulative for these resources added during the planning period.
- 16-17) For Resource Capacity Additions section: Generic Wind annual and cumulative megawatts show year-over-year and cumulative for these resources added during the planning period.
- 18-19) For Resource Capacity Additions section: Utility Solar annual and cumulative megawatts show year-over-year and cumulative for these resources added during the planning period.
- 12) For Energy and Capacity Positions section: Thermal Generation is the sum of generation for both the existing units' plus any new thermal builds in the planning period.
- 13) For Energy and Capacity Positions section: Current Purchased Energy is the sum of generation from the existing wind power purchase agreements.
- 14) For Energy and Capacity Positions section: New Wind, EE, Solar, and IVV is the sum of generation from new wind, solar, energy efficiency, distributed solar, and volt-var optimization resources.
- 15) For Energy and Capacity Positions section: Market Sales equals the sum of generation for new resources: Thermal, power purchase generation contracts, wind, solar, EE, and VVO.
- 16) For Energy and Capacity Positions section: Net Load Requirements represents SWEPCO's load in gigawatt hours.

- 17) For Energy and Capacity Positions section: Energy Surplus is the difference between market sales of generation into the market and the load responsibility. A negative value indicates the need to purchase energy from the market to cover our load obligation. 17) Capacity is the sum of all generating units' capabilities in megawatts.
- 18) For Energy and Capacity Positions section: Peak Plus Reserves is SWEPCO's peak load plus the 12% reserve margin established by SPP.
- 19) For Energy and Capacity Positions section: Capacity Surplus is the difference between capacity and peak plus reserves in megawatts.
- 20) For Energy and Capacity Positions section: Reserve Margin is calculated reserve margin that includes existing generator capacity plus any new capacity built in planning period divided by the peak load.
- 21) For Carbon Intensities section of report: Existing Units CO2 Emissions shows the total tons of carbon produced from SWEPCOs existing fleet.
- 22) For Carbon Intensities section of report: Total System CO2 Emissions show the total tons of carbon produced from SWEPCOs existing fleet plus any new build thermal capacity.
- 23) For Unit Prices/Cost section of report: Net Load Cost in (\$/MWh) is the average cost of the SWEPCO's load.
- 24) For Unit Prices/Cost section of report: Market Realization for Energy (\$/MWh) is the average cost of dispatched generation.
- 25) For Unit Prices/Cost (Nominal\$) section of report: Grand Total Net Cost to Load (\$/MWh) is the total cost divided by SWEPCO's load.

Prepared By: Joseph S. Perez

Title: Forecast Analyst Prin

Sponsored By: Mark A. Becker

Title: Mng Dir Res Plnning&Op Anlysis

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**SOUTHWESTERN ELECTRIC POWER COMPANY'S RESPONSE TO SIERRA
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Question No. SC 7-13:

Refer to SWEPCO response to SC 2-17, Attachment 1.

- a. Explain why the total Flint Creek project cost in this attachment differs from the total project cost on SC 1-9, Attachment 1.
- b. State the amount of each of the CCR/ELG and Pond Closure costs that were included in the test year rate base.

Response No. SC 7-13:

SWEPCO has filed an objection to this RFI.

Prepared By: Brian K. Rupp

Title: Regulatory Case Mgr

Sponsored By: Mark A. Becker

Title: Mng Dir Res Plnning&Op Anlysis

Sponsored By: Monte A. McMahon

Title: VP Generating Assets SWEPCO